

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **MIDDLE DISTRICT OF PENNSYLVANIA**

4 LORI ANDRUKAITIS,                                   )

5                                   Plaintiff                                   )

6                                   v.                                   )

7                                   VERDE ENERGY USA, INC.,                                   )

8                                   Defendant                                   )

9                                   Case No.: *CV-14-2207*

10                                   **COMPLAINT AND DEMAND FOR**  
11                                   **JURY TRIAL**

12                                   **COMPLAINT**

13                                   LORI ANDRUKAITIS (“Plaintiff”), by and through her attorneys,  
14 KIMMEL & SILVERMAN, P.C., alleges the following against VERDE ENERGY  
15 USA, INC. (“Defendant”):  
16

17                                   **INTRODUCTION**

18                                   1. Plaintiff’s Complaint is based on the Telephone Consumer Protection  
19 Act (“TCPA”).  
20

21                                   **JURISDICTION AND VENUE**

22                                   2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See  
23 Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).  
24

25                                   3. Defendant conducts business in the Commonwealth of Pennsylvania  
and as such, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person residing Wilkes Barre, Pennsylvania  
4 18705.  
5

6 6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).

7 7. Defendant is a corporation that has its office located in Norwalk,  
8 Connecticut 06851.  
9

10 8. Defendant is a "person" as that term is defined by 47 U.S.C.  
11 §153(39).

12 9. Defendant acted through its agents, employees, officers, members,  
13 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
14 representatives, and insurers.  
15

16 **FACTUAL ALLEGATIONS**

17 10. Plaintiff has a cellular telephone number that she has had for more  
18 than one year.  
19

20 11. Plaintiff has only used this number as a cellular telephone number.

21 12. The phone number has been assigned to a cellular telephone service  
22 for which Plaintiff incurs a charge for incoming calls.  
23

24 13. Plaintiff never provided permission to Defendant to call her cellular  
25 telephone number or to contact her regarding any goods or services offered by

1 Defendant.

2 14. Beginning in August 2014, and continuing through September 2014,  
3 Defendant called Plaintiff on her cellular telephone.  
4

5 15. When contacting Plaintiff on her cellular telephone, Defendant used  
6 an automatic telephone dialing system and automatic and/or pre-recorded  
7 messages.  
8

9 16. Defendant's messages would state its name and that its call was "for  
10 marketing purposes."  
11

12 17. Defendant's telephone calls were not made for "emergency purposes."  
13

14 18. For example, Defendant called Plaintiff on: August 28, 2014, and  
15 September 21, 2014.

16 **DEFENDANT VIOLATED THE**  
17 **TELEPHONE CONSUMER PROTECTION ACT**

18 19. Plaintiff incorporates the forgoing paragraphs as though the same were  
19 set forth at length herein.

20 20. Defendant initiated multiple automated telephone calls to Plaintiff's  
21 cellular telephone using a prerecorded voice.

22 21. Defendant initiated these automated calls to Plaintiff using an  
23 automatic telephone dialing system.

24 22. Defendant's calls to Plaintiff were not made for emergency purposes.  
25

1       23. Defendant's calls to Plaintiff, in and after August 2014, were not made  
2 with Plaintiff's prior express consent.

3       24. Defendant's acts as described above were done with malicious,  
4 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights  
5 under the law and with the purpose of harassing Plaintiff.  
6

7       25. The acts and/or omissions of Defendant were done unfairly,  
8 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
9 lawful right, legal defense, legal justification or legal excuse.  
10

11       26. As a result of the above violations of the TCPA, Plaintiff has suffered  
12 the losses and damages as set forth above entitling Plaintiff to an award of  
13 statutory, actual and trebles damages.  
14

15  
16                                   **PRAYER FOR RELIEF**

17       WHEREFORE, Plaintiff, LORI ANDRUKAITIS, respectfully prays for a  
18 judgment as follows:  
19

- 20           a. All actual damages suffered pursuant to 47 U.S.C. §  
21           227(b)(3)(A);  
22           b. Statutory damages of \$500.00 per violative telephone call  
23           pursuant to 47 U.S.C. § 227(b)(3)(B);  
24  
25

- 1 c. Treble damages of \$1,500 per violative telephone call pursuant  
2 to 47 U.S.C. §227(b)(3);  
3  
4 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);  
5  
6 e. Any other relief deemed appropriate by this Honorable Court.

7 **DEMAND FOR JURY TRIAL**

8 PLEASE TAKE NOTICE that Plaintiff, LORI ANDRUKAITIS, demands a  
9 jury trial in this case.

10  
11 RESPECTFULLY SUBMITTED,

12 DATED: November 18, 2014

13 KIMMEL & SILVERMAN, P.C.

14  
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